BOB GRAHAM
FLORIDA

United States Senate

WASHINGTON, DC 20510-0903

February 20, 2003

Country of Origin Labeling Program
Agricultural Marketing Service
William Sessions, Associate Deputy Administrator
Eric Forman, Associate Deputy Administrator
USDA STOP 0249, Room 2092-S
1400 Independence Avenue, Southwest
Washington, D.C. 20250-0249

Office of Management and Budget
New Executive Office Building
725 17th Street, Northwest, Room 725
Washington, D.C. 20503

Clearance Officer
USDA-OCIO, Room 404-W
Jaime L. Whitten Building, STOP 7602
1400 Independence Avenue, Southwest
Washington, D.C. 20250-7602

Via Facsimile and First Class Mail

Re: Notice of Request for Emergency Approval of a New Information Collection, Docket Number LS-02-16

Dear Sirs:

These comments are filed in response to the Notice referred to above concerning record keeping requirements and the accuracy of the United States Department of Agriculture (USDA) cost estimates regarding the implementation of the country of origin labeling program.

The intent of the labeling provision was to not necessitate a substantial increase in the amount of paperwork necessary for producers, handlers, and retailers to comply with the program. While the law does require verifiable record keeping to ensure proper compliance, it was not intended to require a separate audit trail. In fact, the State of Florida has had a successful country of origin labeling program for perishable agricultural commodities since 1979 without requiring an extensive audit trail to ensure compliance.

In the case of perishable agricultural commodities, producers already provide country of origin information on shipping containers and consumer ready packages. Existing law requires that each carton or package of a perishable agricultural commodity that is grown, shipped, and entered into commerce in the United States must be labeled with the country of origin of the product on the shipping container. The United States Customs Service requires similar information for products imported into the United States. This information can be easily conveyed up the marketing chain to the retail level. The Perishable Agricultural Commodities Act (PACA) requires that that each licensee record all essential facts regarding every transaction in its business and that those records be maintained for two years; information regarding the country of origin of a commodity can be included in this existing paperwork requirement.

Records already required to be maintained can be used to verify the accuracy of the country of origin labeling for enforcement purposes as well. Therefore, retailers and suppliers should be free to use whatever records they have to comply with this act. A mandatory record keeping system to provide a verifiable audit trail would duplicate much of the paperwork already required under PACA. The chain of records used to provide country of origin labeling information to the retailers can also be used to discover where in that chain an error or intentional mislabeling occurred. Again, much of this can be done within the existing paperwork requirements or as a simple addendum to the existing required paperwork.

USDA should work cooperatively with those segments of the industry that produce covered commodities that lack an established paperwork infrastructure to provide an accurate accounting of the commodity's country of origin. However, this should not impede the ability for those commodities with such an established infrastructure to use existing paperwork to verify a commodity's country of origin.

Also, the cost estimates proffered by USDA regarding compliance with the country of origin labeling program are grossly inflated because the estimate of the number of entities affected is vastly overstated. USDA estimates that approximately 2 million producers will be affected by the program while acknowledging within those estimates that "a number of these farms, ranches, and fisherman may not produce products that are covered by these guidelines or sell to outlets that would require their suppliers to adopt these guidelines ..." USDA uses the same caveat in regards to handlers and retailers. Producers who do not produce covered commodities and handlers and retailers that do not handle or sell covered commodities should not be included in cost estimates by USDA. More realistic estimates are able to be made and there are several sources of information with which USDA can more accurately estimate the number of producers, handlers, and retailers that will come under the auspices of country of origin labeling regulations. A fair and accurate estimate of the number of entities affected by the guidelines would facilitate the successful implementation of the country of origin labeling program.

In summary, many existing paperwork requirements can be used to verify the country of origin of commodities, especially for perishable agricultural commodities. Since this established paperwork infrastructure currently exists, country of origin specific paperwork would be duplicative. Also, USDA's cost estimates do not provide an accurate measure of entities affected by the provisions or of the true cost of the program.

I look forward to working with USDA to ensure the successful implementation of the country of origin labeling program.

With kind regards,

Sincerely,

United States Senator